

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 28, 2002

IN RE:

**APPROVAL OF THE AMENDMENT TO
THE INTERCONNECTION AGREEMENT
BETWEEN BELL SOUTH
TELECOMMUNICATIONS, INC. AND
E.SPIRE COMMUNICATIONS, INC.**

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DOCKET NO. 02-00609

**ORDER APPROVING
AMENDMENT TO THE INTERCONNECTION AGREEMENT**

This matter came before Director Deborah Taylor Tate, Director Pat Miller, and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on July 23, 2002 to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and e.spire Communications, Inc.

The original interconnection agreement was filed on August 21, 2000 and was assigned Docket No. 00-00741. The Authority approved the agreement at the November 7, 2000 Authority Conference. The first amendment to the agreement was filed on July 19, 2001 and was assigned Docket No. 01-00635. The Authority approved the first amendment at the September 25, 2001 Authority Conference. The second amendment to the interconnection agreement was filed on May 6, 2002 and was assigned Docket No. 02-00511. The Authority

approved the second amendment at the July 23, 2002 Authority Conference. The third amendment, which is the subject of this docket, was filed on May 23, 2002.

Based upon the review of the amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the amendment and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.
- 3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).¹ Thus, although the Authority finds that neither ground for rejection

¹ See 47 U.S.C. § 252(e)(2)(B)(Supp. 2001).

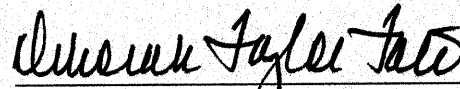
of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

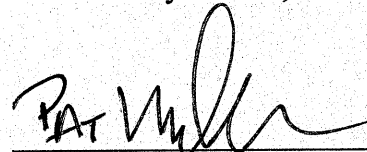
5) No person or entity has sought to intervene in this docket.

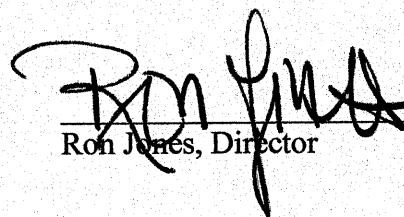
6) The amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

IT IS THEREFORE ORDERED THAT:

The Petition is granted, and the third amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and e.spire Communications, Inc. is approved and is subject to the review of the Authority as provided herein.


Deborah Taylor Tate, Director


Pat Miller, Director


Ron Jones, Director